

# EXHIBIT C

ROBERT P. ESPELAND 6/28/2022

Page 1

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF MISSOURI  
3                   EASTERN DIVISION  
4       U.S. BANK, National Association,       )  
5           Plaintiff,                                )  
6                                vs.                    ) Case No.  
7       MICHAEL QUALIZZA, NEIL D. FREEMAN,       ) 4:21-cv-00120  
8       TIMOTHY DIXON,                                )  
9           Defendants and Counterclaimants,       )  
10                               and                    )  
11       DFQ MANAGEMENT LLC, and                    )  
12       1501 WASHINGTON ST. LOUIS, LLC,            )  
13           Counterclaimants,                        )  
14                                vs.                    )  
15       U.S. BANCORP COMMUNITY                    )  
16       DEVELOPMENT CORPORATION, and            )  
17       U.S. BANK, NATIONAL ASSOCIATION,        )  
18           Counterclaim Defendants.            )  
19                                VIDEO-RECORDED DEPOSITION OF  
20                                ROBERT P. ESPELAND  
21                                TAKEN ON BEHALF OF THE  
22                                DEFENDANTS AND COUNTERCLAIMANTS  
23                                JUNE 28, 2022  
24                   (Starting time of the deposition: 8:59 a.m.)  
25

ROBERT P. ESPELAND 6/28/2022

Page 24

1           **Q. Why did you want the state to expedite**  
2   **the process?**

3           A. Well, I mean, I look at it -- I count  
4 the developer as a partner. They're a partner. So  
5 we -- I want to see the credit certificate issued as  
6 fast as anybody else, so I mean, we've all got  
7 timing and when the certificate is going to get  
8 issued. So it's all -- in everybody's best interest  
9 to try to get that certificate issued sooner rather  
10 than later.

11           **Q. Tell me what you mean when you say you**  
12 **look at Mr. Qualizza and the others involved in the**  
13 **development as a hotel -- of the hotel as a partner.**

14           A. Is that they -- we signed an agreement  
15 with them and we try to -- through all of our  
16 efforts try to meet our end goal, which is  
17 ultimately in my state credit case get the  
18 certificate issued on a timely basis.

19           **Q. And did you believe that you and**  
20 **Mr. Qualizza were partners in getting the hotel, all**  
21 **of the tax credits it was entitled to as fast as**  
22 **possible?**

23           A. My role within that was I was working  
24 with the state and working with Mr. Qualizza, I felt  
25 like I -- that -- what I was offered to do, correct,

ROBERT P. ESPELAND 6/28/2022

Page 25

1     yes.

2                   **Q.     I take it your relationship with**  
3     **developers who are developing these historic**  
4     **properties is something that's important to you and**  
5     **CDC?**

6                   A.     That's customer service, yeah. It's  
7     important to me, yeah. That everyone be happy. So  
8     yeah, that's important to me. That's part of  
9     growing your business, yeah, in my mind.

10                  **Q.     And in terms of you acting as a partner**  
11     **with Mr. Qualizza, is that how in your other deals**  
12     **you also interact with the developers?**

13                  A.     That is correct, yes.

14                  **Q.     So some of the activity in this -- I**  
15     **mean, I've read your e-mails. It's fair to say that**  
16     **you were disappointed with the speed of the state's**  
17     **actions?**

18                  A.     Well, I mean --

19                  **Q.     It's okay to say yes if that's true.**

20                  A.     I mean, that's just the way the  
21     situation was. I mean, the state administrative  
22     changes, all different things happen, different  
23     variables happen. So we can only go with -- you can  
24     only push so hard. So -- but we have to stay within  
25     the state's parameters. They can only -- you know,

ROBERT P. ESPELAND 6/28/2022

Page 34

1           A.    On the Missouri -- on the Missouri  
2 historic tax credits, yes.

3           **Q.    As a partner of Mr. Qualizza and the**  
4 **other people involved in The Last Hotel, what did**  
5 **you view your duties in that regard to be?**

6           A.    To Mr. Qualizza, my duties, if anybody,  
7 is to try to -- once we sign an agreement to  
8 purchase the credits, once the project is completed,  
9 placed in service, then I work with -- if the  
10 developer would like me to work with the state to  
11 try to get the certificate issued, the state  
12 historic certificate issued in a regular -- rather  
13 timely basis if possible.

14           **Q.    In the Missouri state tax credit world**  
15 **of 2017 through 2020, how many different deals were**  
16 **you responsible for on an annual basis?**

17           A.    In Missouri we'll say anywhere from 20  
18 to 30 deals on average on new -- new originations.

19           **Q.    Have you been to The Last Hotel?**

20           A.    I have.

21           **Q.    Do you think it's pretty nice?**

22           A.    I've been there. I've had lunch there,  
23 yes. I've not stayed there. I've been to a pre --  
24 conference party there as well, yes.

25           **Q.    How many times have you been to the**

ROBERT P. ESPELAND 6/28/2022

Page 35

1     **property?**

2             A.     Twice.

3             **Q.     When was the first time?**

4             A.     For lunch.

5             **Q.     Just a lunch?**

6             A.     Just a client lunch, yes.

7             **Q.     How was it?**

8             A.     It was very nice.

9             **Q.     Okay. Great. Then what was the other**  
10    **event?**

11            A.     It was a -- there was a -- prior to the  
12    historic conference here in St. Louis, the  
13    Novogradac historic annual conference they held in  
14    St. Louis. Again, I believe it was in 2020 -- 2019  
15    maybe, they held a gathering on top of the roof of  
16    The Last Hotel, yeah. Not the whole conference,  
17    just a certain segment of the conference, yeah.

18            **Q.     That rooftop pool and setup there is**  
19    **pretty nice too, right?**

20            A.     That is correct, yes.

21            **Q.     Did you enjoy it?**

22            A.     I did, yes.

23            **Q.     Had you seen that property prior to the**  
24    **redevelopment of The Last Hotel?**

25            A.     Our office is very close to that, so I

ROBERT P. ESPELAND 6/28/2022

Page 36

1 walked by it multiple times, but never been inside  
2 the property, no.

3 Q. You'd agree that the redevelopment of  
4 The Last Hotel is good for that neighborhood?

5 A. I would, yes.

6 Q. And do you agree that the development  
7 of The Last Hotel was done well based on going in  
8 there after the development was done?

9 A. From my -- what I saw of the hotel,  
10 my -- yes, I agree. I mean, I know there was some  
11 questions about some of the costs, you know, the  
12 costs that were incurred and really not they get  
13 credits for, but that was -- you know, that's  
14 between the state and the developer, yeah.

15 Q. And that would be separate from just  
16 the fact that it's -- The Last Hotel has been a  
17 major improvement to that block of that street on  
18 Washington Avenue, right?

19 A. I would -- yes.

20 Q. So the -- you mentioned an issue  
21 regarding the ultimate amount of the tax credit that  
22 was approved by the state?

23 A. Yes.

24 Q. What did you mean by that?

25 A. Well, there's a -- there's certain

1           Q.    And if the -- and in your experience  
2   it's not atypical for a developer to question any  
3   reduction in the tax credits, right?

4           A.    I wouldn't know. My experience --  
5   again, I'm not that involved on that aspect. Again,  
6   my involvement is also getting the certificate, and  
7   getting it issued. All the details, that's  
8   typically between the applicant and the state and I  
9   don't get that involved as far as the individual  
10  eligible expenses, yeah.

11          Q.    If you were asked by a developer in  
12  2017 how long after occupancy the tax credits would  
13  be approved and available, what would you have told  
14  them?

15          A.    There's a lot of variables. I mean,  
16  size of the project.

17          Q.    Let's talk about The Last Hotel. If  
18  you had been asked about The Last Hotel project back  
19  at the time --

20          A.    Uh-huh.

21          Q.    -- on how long it would take to get the  
22  tax credits approved, what would you have said?

23          A.    After placed in service, completed  
24  certificate of occupancy, I mean, these days --  
25  again, it's too many variables. I mean, I would say



ROBERT P. ESPELAND 6/28/2022

Page 39

1 on average I would -- I would pencil in a year's  
2 time at this point given my history with the state.

3 Q. Sure.

4 A. But I don't know. You know, there's  
5 again a lot of variables and --

6 Q. I'd like you to just go back in time --

7 A. Sure.

8 Q. -- to 2017. Because you say at this  
9 time, you've obviously lived through the reduction  
10 in staffing at the department and the state, right?

11 A. Yeah.

12 Q. Yeah. And so I would like you to go  
13 back in your shoes to 2017. If Mr. Qualizza had  
14 said to you from occupancy, you know, what -- what  
15 can I expect, when can I expect the tax credits to  
16 get through the process, what would you have said?

17 A. I would say you might want to give  
18 yourself -- I mean, again, the size of the project  
19 and you might want to give -- I mean, on average  
20 without any issues with the cost certification,  
21 without any issue with the final application support  
22 and the cost certification, I mean, in my mind I  
23 would probably pencil in a year's time. A year's  
24 time to potentially do that.

25 Now, if they want to challenge the cost

ROBERT P. ESPELAND 6/28/2022

Page 40

1 certification and challenge a lot of things that  
2 went along with it, then you're going to add on time  
3 to that, yeah.

4 **Q. Okay. So you are aware back at the**  
5 **time that this deal was actually signed that**  
6 **there -- that even from the certificate of occupancy**  
7 **it could take a long time before the tax credits**  
8 **would get through the procedure?**

9 A. Again, there's a lot of different  
10 things that can happen, you know, a lot of different  
11 variables that could happen. So ...

12 **Q. But you would have said if you had been**  
13 **asked back when the deal closed there's a lot of**  
14 **variables but, you know, there's a new**  
15 **administration, it can be as long as a year and you**  
16 **just never know when it's going to be done. Is that**  
17 **what you would have said?**

18 A. Right now with the expedited review  
19 process we're at least looking at a hundred days.  
20 So I mean -- so, I mean, yeah, I would -- my mind I  
21 might pencil in a year, nine months to a year. I  
22 mean, it depends on -- again, everything has to line  
23 up just right to speed up that process without any  
24 issues, without any challenges by the developer to  
25 getting the certificate, so a lot of that has to

ROBERT P. ESPELAND 6/28/2022

Page 59

1 A. That is correct.

2 Q. That arrangement was part of  
3 everybody's understanding of the deal at the time  
4 that it was signed, right?

5 A. Well, it's my -- when I sign the  
6 agreement, what my role is try to get the  
7 certificate is to get the certificate so we can pay  
8 -- in this case pay off a bridge loan, yeah.

9 Q. And you know --

10 A. And I wasn't really part of this loan  
11 conversation, but yeah.

12 Q. No problem.

13 A. Yeah. Yeah.

14 Q. When you describe yourself as a partner  
15 with the developers and with people like  
16 Mr. Qualizza, one way that you can be a good partner  
17 is to help them satisfy these bridge loans by buying  
18 those tax credits as soon as possible, right?

19 A. That's correct.

20 Q. You mentioned the expedited process.  
21 Was RubinBrown involved in that?

22 A. RubinBrown prepared the first cost  
23 certification. And then the state engaged -- once  
24 the developer elected to go through the expedited  
25 review process, then the state engaged another

ROBERT P. ESPELAND 6/28/2022

Page 69

1 at, which is you understood when this deal was done  
2 that there was a bridge loan with Octagon in the  
3 amount of \$17 million, that that was at a higher  
4 interest rate and that the developer was very  
5 interested in paying that off through the bank's  
6 purchase of the tax credits, right?

7 A. That would be the intention for --  
8 yeah, to get that paid off as soon as it was issued,  
9 yes.

10 Q. Okay. And so as of December 2017, the  
11 date of Exhibit 2, the projection is that the bridge  
12 loan repayment would be in March of -- I mean, in  
13 May of 2019?

14 A. May 2019. That's what it looks like,  
15 yes.

16 Q. And the projected amount of that  
17 repayment would be the 13.6 million or so?

18 A. I see 10.29 here.

19 Q. Oh, go down. Okay. Got it. There's a  
20 U.S. Bank purchase price for the state historic tax  
21 credits --

22 A. Yeah.

23 Q. -- which is 10.297 million, right?

24 A. Right. Correct.

25 Q. Okay. So this projection done by Cohn

ROBERT P. ESPELAND 6/28/2022

Page 70

1     Reznick as of December 29th, 2017 and addressed to  
2     the developers and to the bank entities involved is  
3     projecting that you will under your tax credit  
4     purchase agreement purchase the state historic tax  
5     credits for 10.29 million in May of 2019, right?

6             A.     That's what is projected, yes. At time  
7     of closing.

8             Q.     But of course you didn't review  
9     Exhibit 2 before it was issued, right?

10            A.     That is correct.

11            Q.     And nobody at the bank got you involved  
12     in evaluating whether that May of 2019 date was  
13     reasonable, correct?

14            A.     That is correct.

15            Q.     And if you had been involved back in  
16     December of 2017 and they said, hey, how soon can we  
17     actually close on the U.S. Bank purchase of the  
18     state historic tax credits, you would have said in  
19     the current administration with all the variables,  
20     that might be more than a year from -- from  
21     occupancy, right?

22            A.     Possibly, yeah. If things line up, if  
23     cost certifications weren't challenged, a lot of  
24     variables, but --

25            Q.     Do you know why you weren't consulted

ROBERT P. ESPELAND 6/28/2022

Page 83

1 Q. The purchase price is going to be that  
2 10.297, right?

3 A. Correct. Correct.

4 Q. And that's because you're purchasing  
5 for \$0.94 on the dollar?

6 A. That's correct, yes.

7 Q. Okay. Great. So what that shows then  
8 is in your document here, the tax credit purchase  
9 agreement that was drafted by the bank or its  
10 counsel, it incorporated the same number as what is  
11 in the model in Exhibit 2 for the U.S. Bank purchase  
12 price of 10.297 million, right?

13 A. That's correct.

14 Q. Okay. If you go back to the first  
15 page. It says (quote as read):

16 It's anticipated that the project will  
17 be placed in service on or before  
18 March 1st, 2019.

19 Right?

20 A. That's correct.

21 Q. So at the time that the models and  
22 projections were created to close on the deal, all  
23 parties, including U.S. Bank and the developer  
24 anticipated a March 1st, 2019 placed in service  
25 date, right?